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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/560,686	04/27/2000	H. Robert Tiffany III		4409

7590 05/28/2003

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EXAMINER

BARFIELD, ANTHONY DERRELL

ART UNIT

PAPER NUMBER

3636

DATE MAILED: 05/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/560,686

Applicant(s)

TIFFANY ET AL.

Examiner

Anthony D Barfield

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 02 January 2002 is: a) ☐ approved b) ☒ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,3-7,10-11 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Aginar. Aginar shows a bench having a plurality of rib units (30-40) each having at least one functional surface such that a composite of each of the at least one functional surface of the plurality of rib units define a functional surface (i.e., the back or the seat) of the furniture piece (see Figs 1,8 and 10). Aginar further shows the use of at least one support member (the front and rear legs) “emanating consistently” from each rib unit, interconnecting means (51,52,54) and spacer means (41-42).

3. Claims 1-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Thebaud ('109). Thebaud shows a bench (10) having a plurality of rib units (12) each having at least one functional surface such that a composite of each of the at least one functional surface of the plurality of rib units define a functional surface of the bench (see Figure 1) of the bench (01). Thebaud further shows the use of at least one support member (14) “emanating consistently” from a front or rear portion thereof, interconnecting means (18) and spacer means (22).

4. Claims 1-5,7,10-11 and 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Draxler. Draxler shows a bench (6) having a plurality of rib units (30,31) each having at least one functional surface such that a composite of each of the at least one functional surface of the

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plurality of rib units define a functional surface (i.e., the back or the seat) of the furniture piece (see Figs 1,8 and 10). Draxler further shows the use of at least one support member (13,15) "emanating consistently" from each rib unit, interconnecting means (50) and spacer means (74,62). Draxler further shows that the support members of each rib unit (30,31) are angularly spaced from the first functional member independently of the remaining support members, as seen in Figures 1 and 4 in order to form wedge.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aginar.

Aginar shows all of the teachings of the claimed invention except each rib unit made from metal or plastic. It would have been an obvious matter of design choice to modify each rib unit from either metal or plastic, since applicant has not disclosed that a metal or plastic rib solves any stated problem and it appears that the rib, as taught by Aginar, would perform equally well.

7. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Draxler.

Draxler shows all of the teachings of the claimed invention except each rib unit made from metal or plastic. It would have been an obvious matter of design choice to modify each rib unit from either metal or plastic, since applicant has not disclosed that a metal or plastic rib solves any stated problem and it appears that the rib, as taught by Draxler, would perform equally well.

Response to Amendment

8. Applicant's amendments filed 3/17/03 have been fully considered but they are not persuasive enough to place application in condition for allowance. Applicant is directed to the above rejections as the Examiner is of the position that the above references still in fact anticipate and/or render obvious applicant's claimed invention.

Conclusion

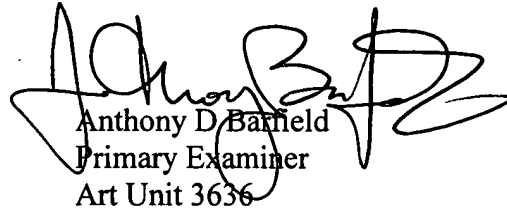
9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony D Barfield whose telephone number is 703-308-2158.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.



Anthony D Barfield
Primary Examiner
Art Unit 3636

adb
May 24, 2003